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Texas State Legislature
House of Representatives
Austin, Texas

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June 25, 1991

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The Honorable Dan Morales
Attorney General of the State of Texas
Supreme Court Bldg., P.O. Box 12548
Austin, TX 78711-2548

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JUN 29

Opinion Committee

Dear General Morales:

This is to request an Attorney General's opinion on a provision contained in Senate Bill 432, by Senator Green, which relates to the continuation, composition and functions of the Texas Real Estate Commission.

During the 72nd Regular Session, an amendment was added to SB432 which amended Section 7A, The Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes). I have enclosed the cited section for your perusal.

The provision in question was added as Subsections (e) and (f) to Section 7A. Current law mandates continuing education requirements for renewal of a real estate broker license or an active real estate salesman license. The new language provided in SB432 would allow the Texas Real Estate Commission to notify real estate brokers who have been licensed at least ten years and whose principal place of business is located in a county with a population of 225,000 or less of the right to "opt out of the mandatory continuing education requirements." The qualifying brokers would then be exempted from the continuing education requirements.

Question Number One:

Under Texas law, can a professional licensing requirement be waived for a person, or persons, based on geographical locale? In this case, urban real estate brokers would not be allowed the same exemption as rural real estate brokers.

Question Number Two:

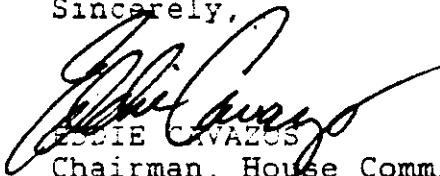
Under Texas law, is it legal to deny certain consumers the same protection accorded other consumers based on geographical location? Under this new statute, real estate consumers residing within rural counties would depend upon the services of real estate brokers who have not met the same continuing education requirements as their urban counterparts.

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Attorney General Morales
June 25, 1991

This request for an Attorney General's opinion has received the support of the Texas Association of Realtors' state convention, since it is of urgent concern to the membership.

I would greatly appreciate your prompt response to this request. Should you require further information, please contact me at 512/853-4953.

Sincerely,



EDDIE CAVARES
Chairman, House Committee on Insurance

AG.TRA

SECTION 1.041. Section 7A, The Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes), is amended by amending Subsection (a) and adding Subsections (e) and (f) to read as follows:

(a) To renew a real estate broker license or an active real estate salesman license that is not subject to the annual education requirements of this Act, the licensee must provide the commission proof of attendance at at least 15 classroom hours of continuing education courses approved by the commission during the term of the current license. The commission by rule may provide for the substitution of relevant educational experience or correspondence courses approved by the commission instead of classroom attendance. In addition, supervised video instruction may be approved by the commission as a course counting as classroom hours of mandatory continuing education. At least six hours of instruction must be devoted to the rules of the commission, fair housing laws, agency laws, antitrust laws, the Deceptive Trade Practices-Consumer Protection Act (Subchapter E, Chapter 17, Business & Commerce Code), disclosures to buyers and sellers, current contract and addendum forms, the unauthorized practice of law, case studies involving violations of laws and regulations, current Federal Housing Administration and Veterans Administration regulations, tax laws, and other legal topics approved by the commission. The remaining hours may be devoted to other real estate-related topics approved by the commission. The commission may consider equivalent

courses for continuing education credit. The commission, on the request of a provider of education, shall review a core real estate course authorized under Section 7 of this Act and may approve it as a mandatory continuing education course. Real estate related courses approved by the State Bar of Texas for minimum continuing legal education participatory credit shall automatically be approved as mandatory continuing education courses under this Act.

The commission may not require examinations except for correspondence courses. Daily course segments must be at least three hours long but not more than 10 hours long. If the license being renewed under this section was issued for less than two years, the licensee must provide the commission proof of attendance at at least eight classroom hours of continuing education within the term of the current license, three classroom hours of which must have been devoted to the legal topics specified in this section.

(e) On or before September 25, 1991, the commission shall:

(1) identify each real estate broker that:

(A) has been licensed under this Act for at least 10 years as of September 1, 1991, and holds a license as a real estate broker on that date; and

(B) on June 1, 1991, has the principal place of real estate brokerage business, as designated on the real estate broker's license pursuant to Subsection (a) of Section 12 of this Act, located in a county with a population of 225,000 or less,

according to the 1980 federal decennial census; and

2 (2) send a written notice to each real estate broker
3 identified under Subdivision (1) of this subsection stating that
4 the real estate broker may qualify to opt out of the mandatory
5 continuing education requirements required by this Act in
6 accordance with Subsection (f) of this section if the real estate
7 broker has held a broker's license for 10 years or more and holds a
8 broker's license on September 1, 1991.

9 (f) Notwithstanding any other provision of this Act, a real
10 estate broker identified and receiving a notice under Subsection
11 (e) of this section who has held a broker's license for 10 years or
12 more and holds a broker's license on September 1, 1991, is not
13 required to comply with the mandatory continuing education
14 requirements of this section to renew the real estate broker's
15 license if after October 1, 1991, and on or before October 30,
16 1991, the real estate broker:

17 (1) notifies the commission in writing that the real
18 estate broker is opting out of those requirements; and

19 (2) pays a one-time fee to the commission in the
20 amount determined by the commission to be adequate to recover the
21 cost to process the application not to exceed \$100.

22 SECTION 1.05. Section 8, The Real Estate License Act
23 (Article 6573a, Vernon's Texas Civil Statutes), is amended by
24 amending Subsections (c) and (n) and adding Subsection (q) to read
25 as follows: